IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4810 OF 2005

Ramesh Chandran Kalambara. ... Applicant.

Versus.

State of Maharashtra. ... Respondent .

Shri S.V.Marwadi for the Applicant.

Ms.S.D.Shinde, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 9th August, 2005.

P.C.:

1. The offence alleged against the Applicant and co-accused is under section 394 read with section 34 of the Indian Penal Code.

2. The learned Advocate for the Applicant submitted that the F.I.R. filed by the victim of the offence itself discloses that the Applicant is a servant of one Vijayan and there was enmity between the complainant and the said Vijayan. He submitted that the recovery of Rs.980/- has been allegedly made at the instance of the Applicant. He submitted that the employer of the Applicant has been ordered to be enlarged on anticipatory bail. He submitted that as the recovery is already made, it is not necessary to keep the Applicant in custody.

3. The learned A.P.P. pointed out that the

investigation is still incomplete and the co-accused are absconding. The learned A.P.P. did not dispute that the employer of the Applicant Vijayan has been granted anticipatory bail.

4. I have considered the submissions. The application made by the Applicant for bail has been rejected by the Sessions Court. In the order of the Sessions Court it is observed that it is not brought on record by the prosecution that the Applicant was servant of Vijayan. The learned Judge has also noted that in the F.I.R. the Applicant has been identified as a servant of Vijayan.

5. The allegation against the Applicant and other two accused is that they assaulted the Complainant by using iron rods. The case of the Complainant against the Applicant is that he assaulted the Complainant by an iron rod on his forehead and subsequently the co-accused assaulted the Complainant by an iron rod on his hands. The first informant has stated that one of the three accused took a sum of Rs.980/- from his pocket. The certificate issued by the Cardinal Gracious Memorial Hospital shows that the Complainant has suffered fracture of nasal bone. The F.I.R. itself discloses that there was earlier enmity between Vijayan the employer of the Applicant and the Complainant. There is a criminal case pending between the said Vijayan and the Complainant in the Court at Vasai. All these facts are

stated in the F.I.R. As stated earlier, Vijayan has been granted anticipatory bail. The alleged recovery of Rs.980/- has been made at the instance of the Applicant and the investigation has made substantial progress. Considering the aforesaid facts and circumstances and considering the fact that the Applicant is in custody from 1ast July 2005, a case is made out for enlarging the Applicant on bail subject to stringent conditions.

6. Hence I pass the following order:

(i) The Applicant shall be enlarged on bail in connection with C.R.No.I-82 of 2005 registered by the Vasai Police Station, subject to furnishing a personal bond of Rs.15,000/- with one or two local sureties in the like amount.

(ii) The bail is granted subject to condition that till charge sheet is filed, the Applicant will attend the concerned Police Station every day between 5.00 p.m. and 7.00 p.m.

(iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall

not in any manner tamper with prosecution evidence.

(iv) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

(v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vi) Application is disposed of in above terms.

Judge.